

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PEDRO AGUIRRE ROSAS, *individually and on
behalf of others similarly situated,*

Plaintiff,
-against-

MEMORANDUM AND ORDER
Case No. 11-CV-2811 (FB) (MDG)

SBS 1310 CORP. d/b/a SUBSATIONAL, and
GARY GANI,

Defendants.

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Appearances:

For the Plaintiff:

JUSTIN CILENTI, ESQ.
Cilenti & Cooper, PLLC
708 Third Avenue
6th Floor
New York, NY 10017

BLOCK, Senior District Judge:

On September 11, 2012, Magistrate Judge Go issued a Report and Recommendation (“R&R”) recommending that the Court award default judgment against defendants in the total amount of \$27,836.13, consisting of \$24,622.50 in damages for unpaid minimum wages, unpaid overtime wages, spread of hours pay, and liquidated damages under the FLSA and New York’s Labor Law, \$413.63 in prejudgment interest up to September 28, 2012 and at a daily rate of \$0.54 per day until entry of judgment, and \$2,800 in attorneys’ fees. *See* R&R at 23-24. The R&R also recommended that the Court deem the complaint and summons amended to substitute “SBS1310 Corp. d/b/a Subsational” as the corporate defendant. The R&R clearly stated that defendants’ failure

to object by September 28, 2012 would preclude appellate review. *See id* at 24. To date, no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R in its entirety and directs the Clerk to enter judgment in accordance with the R&R.¹

SO ORDERED.

FREDERIC BLOCK
Senior United States District Judge

Brooklyn, NY
October 15, 2012

¹The Clerk of Court is further directed to amend the official caption as shown above.